

No. PD-1411-16

JOSHUA JACOBS,

Appellant

vs.

THE STATE OF TEXAS,

Appellee

§
§
§
§
§
§

IN THE TEXAS

FILED
COURT OF CRIMINAL APPEALS
12/27/2017
DEANA WILLIAMSON, CLERK

COURT OF

CRIMINAL APPEALS

APPELLANT'S MOTION FOR REASONABLE BAIL

Appellant, Joshua Jacobs (Jacobs), requests that this court set a reasonable appeal bond pending resolution of the petition for discretionary review of his conviction.

A. Introduction

1. Joshua Jacobs (Jacobs) was the Defendant, and now Appellant. The State of Texas was the Plaintiff and now Appellee.

2. Jacobs was found guilty of conviction for aggravated sexual assault (of a child), enhanced based upon two prior convictions. In December of 2015, the District Court sentenced Jacobs to life. He has been serving that sentence since that date.

3. On November 10, 2016, this Court reversed his conviction and remanded the case for a new trial. *Jacobs v. State*, No. 06-16-00008-CR (Tex. App.—Texarkana Nov. 10, 2016, pet. granted). The State has filed and received an extension from the Court of Criminal Appeals for filing a petition for discretionary review.

4. Kelley Gossett Crisp, counsel for the State, was contacted and opposes the court setting bond.

B. Argument and Authorities

5. Texas Code of Criminal Procedure Art. 44.04(h), entitled *Release Upon Judgment*, provides:

If a conviction is reversed by a decision of a Court of Appeals, the defendant, if in custody, is entitled to release on reasonable bail, regardless of the length of term of imprisonment, pending final determination of an appeal by the state or the defendant on a motion for discretionary review. If the defendant requests bail before a petition for discretionary review has been filed, the Court of Appeals shall determine the amount of bail. If the defendant requests bail after a petition for discretionary review has been filed, the Court of Criminal Appeals shall determine the amount of bail. The sureties on the bail must be approved by the court where the trial was had. The defendant's right to release under this subsection attaches immediately on the issuance of the Court of Appeals' final ruling as defined by Tex.Cr.App.R. 209(c).

Here, Jacobs' conviction was reversed by the Court of Appeals on November 11, 2016. Thus, he is entitled to reasonable bail pending resolution of the petition for discretionary review set by this court.

6. When determining the amount of bail on appeal, the trial court should consider such things as: (1) length of sentence, (2) nature of the offense, (3) work record, family ties and length of residency, (4) ability to make bail, (5) prior criminal history, (6) conformity with previous bail conditions, (7) other outstanding bonds, and (8) aggravating factors involved in the offense. *Ex parte Rubac*, 611 S.W.2d 848, 849-850 (Tex. Crim. App. 1981). Additionally, the trial court may impose appropriate conditions. *See Estrada v. State*, 594 S.W.2d 445, 447-448 (Tex. Crim. App. 1980).

7. Here, Jacobs received a life sentence in December of 2015. He was convicted of aggravated sexual assault (of a child) in December of 2015. *See* Affidavit of Jacobs attached hereto as exhibit A. He lived within 100 miles of Texarkana most of his life, albeit at approximately five different addresses. *Id.* Additionally, while serving in the military I lived in Maryland, Georgia and North Carolina and was deployed to Iraq with the 82nd Airborne division for approximately six months. *Id.* Jacob's does receive Veterans Administration disability payments of \$130 per month. *Id.* Jacob owns an approximately .8 acre tract of real property in Louisiana. *Id.* However, its value is negligible without the surrounding real property. He has cash and personal property with a total value of approximately \$3,000 to \$5,000 *Id.* He has been convicted of Carnal Knowledge of a Juvenile in Louisiana, for which he received three years probation. *Id.* However, that probation was revoked and he served that sentence *Id.* He was then convicted of a second offense in Louisiana, which was a misdemeanor, for which he received time served. *Id.* He was placed on bond for approximately two months for this offense. *Id.* He was in full compliance with that bond, but it was revoked upon his conviction *Id.* . He has never violated a bond requirement. *Id.* Currently, he has no other outstanding bonds. *Id.* This conviction was for aggravated sexual assault because the offense involved a twelve year old child. *Id.*

C. Prayer

8. For these reasons, Appellant asks this Court to set reasonable appeal bail pending resolution of any petition for discretionary review filed by the State, or, in the alternative, to remand the issue to the trial court for the purpose of a factual determination of an adequate bond amount, and for such other and further relief to which he may be entitled.

Respectfully submitted,

Miller, James, Miller & Hornsby, L.L.P.

By: _____

Troy Hornsby

Texas State Bar Number 00790919

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Texarkana, Texas 75503
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Attorney for Appellant Joshua Jacobs

CERTIFICATE OF SERVICE

This is to certify that on December 27, 2017, a true and correct copy of the above and foregoing *Appellant's Motion For Reasonable Bail* has been forwarded by U.S. mail on all counsel of record listed below.

Appellant

Joshua Jacobs
TDC #02042262
Clements Unit
9601 Spur 591
Amarillo, Texas 79107

Trial Court Judge

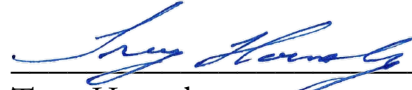
Honorable Bobby Lockhart
102nd District Judge
Bi-State Justice Building
100 North State Line Avenue
Texarkana, Texas 75501

State's Attorney

Kelley Gossett Crisp
Bowie County Dist. Attorney's Office
601 Main Street
Texarkana, Texas 75501

Defendant's Trial Attorney

Will Williams
Bowie Co. Public Defender's Office
424 W. Broad Street
Texarkana, Texas 75501



Troy Hornsby

Exhibit A

Affidavit of Joshua Jacobs

No. PD-1411-16

JOSHUA JACOBS,	§	IN THE TEXAS
<i>Appellant</i>	§	
	§	
VS.	§	COURT OF
	§	
THE STATE OF TEXAS,	§	
<i>Appellee</i>	§	CRIMINAL APPEALS

AFFIDAVIT OF JOSHUA JACOBS

STATE OF TEXAS §
 §
COUNTY OF BOWIE §

Comes the affiant, Joshua Jacobs, and after having been duly sworn and based upon his personal knowledge and information, states as follows:

My name is Joshua Jacobs. I am the Appellant in this case. I am of sound mind, I am over the age of 18, except for prior felony convictions, I am not in any way disqualified from making this affidavit, I am capable of making this affidavit, and personally acquainted with the facts herein stated:

(1) Length of Sentence. I received a life sentence in December of 2015.

(2) Nature of Offense. I was convicted of aggravated sexual assault (of a child) in December of 2015.

(3) Work Record, Family Ties and Length of Residency. I have lived within 100 miles of Texarkana most of my life, albeit at approximately five different addresses. While serving in the military I lived in Maryland, Georgia and North Carolina and was deployed to Iraq with the 82nd Airborne division for approximately six months.

(4) Ability to Make Bail. Jacob's does receive Veterans Administration disability payments of \$130 per month I own an approximately .8 acre tract of real property in Louisiana. However, its value is negligible

without the surrounding real property. I have cash and personal property with a total value of approximately from \$3,000 to \$5,000.

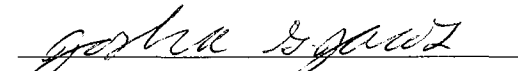
(5) Prior Criminal History. I have been convicted of Carnal Knowledge of a Juvenile in Louisiana, for which I received three years probation. I was then convicted of a second offense in Louisiana, which was a misdemeanor, for which I received time served.

(6) Conformity with Previous Bail Conditions. I was placed on bond for approximately two months for this offense. I was in full compliance with that bond, but it was revoked upon my conviction. I have never violated a bond requirement.

(7) Other Outstanding Bonds. Currently, I have no other outstanding bonds.

(8) Aggravating Factors Involved in the Offense. This conviction was for aggravated sexual assault because the offense involved a twelve year old child.

WITNESSED THE HAND of the affiant this 20 day of December, 2017.


Joshua Jacobs

UNSWORN DECLARATION

**(Pursuant to Texas Rule of Appellate Procedure 73.1
& Texas Civil Practice and Remedies Code §132)**

I, Joshua Jacobs, being presently incarcerated in the Clements Unit of the TDCJ system, in Amarillo, Potter County, Texas, declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on December 20, 2017.


Joshua Jacobs